

### **C. REMARKS**

Applicants respectfully request reconsideration of the outstanding rejections and reexamination of the present application in light of the following amendments and remarks.

#### ***Status of the Claims***

Claims 1, 4-8, and 32 are currently pending. Claims 2, 3, and 9-31 are canceled. Claims 1 and 32 are amended.

#### ***Alleged Rejections under 35 USC 112***

Claims 1, 4-8, and 32 are rejected under 35 USC 112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. [Office Action, p. 2] In particular, the Office Action states that "re claim 1, the limitation "said wireless broadcast of said first electronic work" lines 11 in pages 2 should be changed to "wireless broadcast of said first electronic work", the limitation "a playback said first electronic work" lines 19 in pages 2 should be changed to "said playback of said first electronic work", the limitation "a playback of said first electronic work" lines 1 in pages 3 should be changed to "said playback of said first electronic work", and the limitation "each said separate user preference" lines 12 in pages 3 should be changed to "each separate user preference"." [Office Action, p. 2]

Applicants have amended claim 1 as requested by the Examiner to provide proper antecedent basis for the limitations in the claim. In view of the amendments to claim 1 to provide proper antecedent basis for the limitations in the claim, Applicants respectfully request withdrawal of the rejection of claim 1 under 35 USC 112. In addition, in view of the amendments to claim 1 to provide proper antecedent basis, Applicants respectfully request withdrawal of the rejection of dependent claims 4-8 and 32.

***Additional Information which may be Material to Patentability***

Applicants respectfully direct the Examiner's attention to several matters regarding information which may be material to patentability in the present application.

Applicants note that the present application cites two applications which are co-pending with the present application, which are incorporated by reference into the present application. As noted in the amendments to the specification, Applicants clarify that these applications to which the present application is cross-referenced, include US Patent Application Serial No. 10/728,163 and 10/728,161. In these related applications that are co-pending with the present application, Applicants fulfill the duty of candor and good faith in dealing with the Office to disclose information with Applicants' knowledge as to other co-pending application, including material rejections in co-pending applications, as described in 37 CFR 1.56 and recently clarified in *McKesson Information Solutions, Inc. v. Bridge Medical, Inc.*, 487 F.3d 897, 82 USPQ2d 1865 (May 18, 2007). In particular, Applicants note the Office Action from the same Examiner as assigned to the present application, John J Lee, received in 10/728,163 dated 11/02/2007, and Applicants response to this Office Action dated 02/04/08. In addition, Applicants note the Office Action from the same Examiner as assigned to the present application, John J Lee, received in 10/728,161 on April 15, 2008, to which Applicants will respond. Applicants have noted the references cited in the Office Action in the IDS filed herewith.

### ***Conclusion***

In view of the foregoing, withdrawal of the rejections and the allowance of the current pending claims is respectfully requested. If the Examiner feels that the pending claims could be allowed with minor changes, the Examiner is invited to telephone the undersigned to discuss an Examiner's Amendment.

No extension of time is believed to be necessary. If, however, an extension of time is required, the undersigned hereby authorizes the Commissioner to charge any fees for this extension to IBM Corporation Deposit Account No. 09-0447.

Respectfully submitted,

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